

FILED ON DEMAND

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

RECEIVED  
MAY 1 2018  
CLERK, U.S. DISTRICT COURT  
MINNEAPOLIS, MINNESOTA

United States of America, )  
)  
Plaintiff, )  
)  
v. )  
William J. Mooney, Joni T. Mooney, )  
And Harbor Holdings, Mid-Atlantic )  
Trustees and Administrators, )  
Defendants. )

Case No. 0:16-cv-02547- SRN-LIB

**Answer and Objection to Report and Recommendation Affidavit**

Comes now Mooney, William Joseph and Mooney, Joni Therese tile holders of the Estates and Durable Attorneys of Fact for the Entity's, William J. Mooney and Joni T. Mooney. *See: Exhibit "Assumed Name for William J. Mooney" and also See: Exhibit "Assumed Name for Joni T. Mooney".*

Also Mooney, William Joseph and Mooney, Joni Therese Object and do not give their consent to the Report and Recommendation. Mooney, William Joseph and Mooney, Joni Therese, pray the Judge Susan Richard Nelson will take into consideration The points listed below and deny Plaintiffs motion for summary Judgement for the following reasons:

1. Assessments made to William J. Mooney and Joni T. Mooney were made



without our consent. William J. Mooney and Joni T. Mooney self-assessed and did not consent agree or sign any other assessment.

2. The IRS form 4549 assessments were made by an IRS officer in violation of **IRM 5.1.11.6.8 (03-01-2007) IRC 6020(b) Authority**. 1040 taxes are clearly not listed as one that the Treasury can do an assessment on.
3. The IRS filing of an assessment return for the Defendants is Illegal. The IRS changed the return. The IRS did a 4549 to get around the Prohibition of a Substitute For Return in deliberate violation of **IRM 5.1.11.6.8 (03-01-2007). IRC 6020(b) Authority**. This clearly negates any alleged jurisdiction the court or IRS has in these proceedings. The Defendants have not consented to any assessments.
4. The Court and the IRS have said they have jurisdiction but have refused to to show it. This is a clear violation of Due Process and ground for an appeal.
5. The IRS has been asked repeatedly to show the law that puts a Duty or Obligation on the Defendants to pay a 1040 tax. The Plaintiff and the agency of the IRS, has refused to provide the statute written by Congress which makes the Defendants liable for income tax. The IRS has refused to answer, creating more Due Process violations, negating Jurisdiction and has committed fraud.

*Boathe v. Terry, 713 F.2d 1405, at 1414 (1983)*

*"The taxpayer must be liable for the tax. Tax liability is a condition precedent to the demand. Merely demanding payment, even repeatedly, does not cause liability".*

***FRAUD -***

***An intentional perversion of the truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right; a false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury.....Black Law Dictionary 6<sup>th</sup> Edition page 660.***

6. Plaintiffs Motion for Summary Judgment should have been submitted before October 15<sup>th</sup> 2017 according to the judges order. The Plaintiff and Defendants had agreed on the Scheduling Order. That agreement has been broken and Summary Judgement must be denied. No LR 16.3 was filed. Also the defendant's right to Jury Trial has been violated and Due Process rights violated.
7. The court has allowed a magistrate judge to make a recommendation when we specifically said we did not consent to a magistrate judge. The court has denied our right to a judge with further violations of Due Process.
8. The Judiciary Act of September 24, 1789 and the third article to the Constitution of the United States of America says, only Congress can make law. The court was never given authority to make law, so case law is a misnomer. Case law is a violation of the constitution because the constitutional provisions only permit congress to make law not the courts. So constitutionally speaking there is no such thing as case law because case law amounts to unconstitutional law.
9. No clear and convincing evidence given by testimony under oath with the

penalty of perjury and subject to cross examination has been presented,  
denying Due Process of law and is grounds for an appeal.

10. The court has denied our right to subrogation.

### **Conclusion**

Because of the violations of due process, lack of jurisdiction and the IRS  
violating their own statutes, as well as the Plaintiffs violation of scheduling agreement  
and denying the defendant's right to jury trial, the Motion for Summary Judgement  
must be denied and this matter be dismissed.

The aforementioned is affirmed and attested to as factual and is wholly accurate as  
presented on April 30, 2018 so help me God.

Respectfully submitted; by Mooney, William Joseph and Mooney, Joni Therese estate holders and Durable Attorney of Fact for William J. Mooney and Joni T. Mooney.

All rights reserved, without prejudice  
By: Mooney: William Joseph a.r.  
Mooney: William Joseph, Sui Juris

- jurat -

Minnesota Republic    ]  
  ] ss  
Morrison County        ]

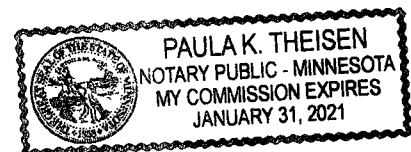
On this 1<sup>st</sup> day of May 2018,

William Joseph Mooney, personally appeared before me, the undersigned officer authorized to administer oaths, known to me the person described in the foregoing answer who acknowledged that he/she executes the same in the capacity stated for the purpose herein contained. In witness whereof, I have hereunto set my hand and official

notary: Paula K Theisen

seal.

My Commission expires: 01/31/21



Word count: 1028 words

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By: Mooney, Joni Therese a.r.  
Mooney: Joni Therese, *Sui Juris*

- jurat -

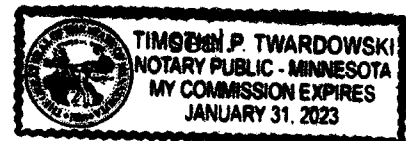
Minnesota Republic ]  
] ss  
Morrison County ]

On this 30 day of April 2018,

Joni Therese Mooney, personally  
appeared before me, the undersigned officer authorized to administer oaths, known to  
me the person described in the foregoing answer who acknowledged that he/she  
executes the same in the capacity stated for the purpose herein contained. In witness  
whereof, I have hereunto set my hand and official

notary: 

My Commission expires: Jan 31 2023



Word count: 1028 words